

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

JOSEPHAT HENRY resident of Harvey, KAY
WILLIAMS resident of Harvey, SYLVIA
BROWNE resident of Clifton Hill, MAUDE DREW
resident of Estate Barren Spot, MARTHA ACOSTA
resident of Estate Profit, JOSE BERRIOS, resident of
Estate Profit, WILHELMINA GLASGOW as an
individual and mother and next friend of
SAMANTHA VIERA, a minor, both residents of
Estate Profit, MERCEDES ROSA resident of Estate
Profit, JULIAN ST. BRICE resident of Clifton Hill
GEORGE RODRIGUEZ as an individual and as
father and next friend of AMANDO and GEORGE E.
RODRIGUEZ, Minors, all residents of Estate Profit,
SONYA CIRILO resident of Estate Profit,
RAQUEL TAVAREZ, resident of Estate Profit,
NEFTALI CAMACHO, as an individual and as
father and next friend of ANGEL JAVIER
CAMACHO, a minor, both residents of Estate Profit,
EYAJIE MALAYKHAN resident of Estate Profit,
CHEDDIE KELSHALL resident of Estate Profit,
and other persons too numerous to mention, A
CLASS ACTION,

Plaintiffs,

v.

ST. CROIX ALUMINA, LLC, ALCOA, INC., and
GLENCORE, LTD, f/k/a CLARENDON, LTD,

Defendants.

1999-CV-0036

TO: Lee J. Rohn, Esq./Gordon C. Rhea, Esq.
Bernard C. Pattie, Esq.
Derek M. Hodge, Esq.

ORDER DENYING DEFENDANTS ST. CROIX ALUMINA, LLC[,] AND ALCOA[,]
INC.'S MOTION FOR PARTIAL RECONSIDERATION OF MAGISTRATE
JUDGE'S ORDER

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THIS MATTER came before the Court upon Defendants St. Croix Alumina, LLC[,] and Alcoa[,] Inc.'s Motion For Partial Reconsideration of Magistrate Judge's Order (Docket No. 1129). Plaintiffs filed an opposition to said motion, and said Defendants filed a reply in support of their motion.

Pursuant to Local Rule of Civil Procedure 7.4, parties may seek reconsideration of an order issued by a judge or magistrate judge of this Court based upon "1. intervening change in controlling law; 2. availability of new evidence, or; 3. the need to correct clear error or prevent manifest injustice." LRCi 7.4. Defendants St. Croix Alumina, LLC, and Alcoa, Inc., ask the Court to reconsider its Order Regarding Plaintiffs' Motion for Sanctions to be Awarded Against Defendants for Willfully Delaying the Production of Crucial Scientific Evidence (Docket No. 1124), entered August 6, 2007. Said Defendants request that the "Court permit Defendants to re-depose, at Defendant's expense, those expert witnesses of Plaintiffs who amend or supplement their opinions in accordance with the August 6 Order." Motion at 1.

Having reviewed the parties' briefs and upon due consideration thereof, nothing therein persuades the Court that its previous order requires modification or reversal. As nothing in said Defendants' filings indicates an intervening change in controlling law or availability of new evidence since the said order was entered, the Court interprets said

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Defendants' motion to be based upon the need to correct clear error or prevent manifest injustice. However, while said Defendants claim prejudice from being unable to re-depose those experts who may amend or supplement their opinions, the Court finds that any prejudice would not be undue nor would manifest injustice result. It must be remembered that the Court's said order was entered as a sanction against said Defendants for their delay in producing the site assessment. The Court entered the order after finding that such sanction was reasonable and proportionate to the discovery violation at issue and that alternative sanctions were either too harsh and/or not commensurate with the discovery violation.

Based upon the foregoing, it is now hereby **ORDERED** that Defendants St. Croix Alumina, LLC[,] and Alcoa[,] Inc.'s Motion For Partial Reconsideration of Magistrate Judge's Order (Docket No. 1129) is **DENIED**.

ENTER:

Dated: November 14, 2007

_____/s/
GEORGE W. CANNON, JR.
U.S. MAGISTRATE JUDGE